

**Department Permit Issued to Boralex Ashland
(dated June 25, 2002)**

file copy



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

DEPARTMENT ORDER

IN THE MATTER OF

BORALEX ASHLAND, INC.)	SOLID WASTE ORDER
ASHLAND, AROOSTOOK COUNTY, MAINE)	
WOODASH UTILIZATION / TRANSITION TO)	RENEWAL
CHAPTER 419)	AND
#S-021177-SE-B-R (APPROVAL WITH CONDITIONS))	AMENDMENT

Pursuant to the provisions of 38 M.R.S.A. section 1301 *et seq.*, 06-096 CMR Chapter 567, *Rules for Land Application of Sludge and Residuals* (effective April 21, 1985, revised January 4, 1994), 06-096 CMR Chapter 419, *Rules for Agronomic Utilization of Residuals* (effective July 19, 1999, revised December 19, 1999), and the Department's other Solid Waste Management Regulations (effective November 2, 1998, revised September 6, 1999), the Department of Environmental Protection has considered the application of BORALEX ASHLAND, INC. (BORALEX or the applicant) with its supportive data and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

- A. Application: Boralex Ashland Inc., formerly known as Northeast Empire Limited Partnership #2 ("NELP#2"), is requesting approval to renew their woodash program license that was issued under Chapter 567, *Rules for Land Application of Sludge and Residuals*. The applicant is also requesting to transition their program into the new requirements of Chapter 419, *Agronomic Utilization of Residuals*, which have since replaced Chapter 567. Specifically, the applicant seeks approval of their Sampling and Analytical Work Plan, which addresses the procedures for monitoring ash quality, and a request to allow utilization of ash without Department-issued site specific licenses. The applicant is also requesting approval to utilize alternative fuels in the facility's mix. The alternative fuels are identified as reprocessed wood fuel (RWF) including chipped utility poles, railroad ties, and other similar chemically-treated wood products and demolition debris (CDWD) including pallets, painted and chemically-treated wood and wood mixed with roofing and other non-wood related demolition products having been removed such that the amount remaining is determined to be insignificant.
- B. History: On November 4, 1993, the Department issued Order #S-021177-SE-A-N which approved Northeast Empire Limited Partnership #2's (NELP#2) woodash utilization program. The order approved distribution of woodash as a soil amendment for agricultural fields. The Program Approval required NELP#2 to obtain a license for each individual site used for ash land application. On

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September 10, 2001, NELP sold the wood-fired electricity generation facilities in Ashland, Maine, to Boralex Ashland, Inc. On May 9, 2002, the Department approved the transfer in Department Order S-021177-SX-D-T.

- C. Application Summary: On November 2, 1998, NELP#2 filed a timely request to renew their woodash utilization program license. The renewal was filed under Department Regulations Chapter 567. On July 19, 1999, Chapter 567 was repealed and replaced by Chapter 419. On December 11, 2001, Boralex Ashland, Inc. filed additional information, and requested revisions in their utilization license to transition to the new Chapter 419 standards. The applicant is also requesting approval to utilize alternative fuels in the facility's mix and for approval to utilize the ash as a loam enhancer for area landscape specialists.

2. FACILITY DESCRIPTION

- A. Fuel Source: Boralex Ashland, Inc. operates a 39.6-megawatt wood-fired electricity generation facility in Ashland, Maine. The generating plant includes a travelling-grate water-tube boiler, steam turbine generator, cooling tower, and electrostatic precipitator. The steam for the power turbine is generated by the single wood-fired boiler. The boiler is fired with whole tree chips and sawmill woodwaste including hogged bark and sawdust. After leaving the pre-heater, the flue gas is stripped of particulate matter in a multicyclone-type dust collector, followed by an electrostatic precipitator. The boiler uses approximately 460,000 wet tons of biomass fuels and generates 9,500 to 14,500 conditioned (35% moisture) tons of woodash annually. Woodash is then conditioned to 35% moisture and stored in a building at the facility.
- B. Bottom Ash: Bottom ash comprising approximately 8 to 12 percent of the total ash volume, is collected dry in enclosed over-grate ash hoppers. This ash is conveyed through an enclosed wet drag chain-type conveyor that dumps into a tandem axle trailer. Bottom ash is permitted for use on-site for road maintenance under Department order #S-021177-WL-C-E, dated March 19, 2000.
- C. Fly Ash: Fly ash is conveyed, in dry form, to an enclosed ash silo, conditioning, and dumpster / disposal system. The dry ash is metered out of the silo by a rotary valve, conditioned with water to a dust-free state, and discharged into an enclosed ash storage building. Conditioning of the ash with water ensures that no live embers are present during transport and storage.
- D. Storage: Boralex proposes to continue temporary storage of woodash on the fuel storage pad as approved under Department order #S-021177-SE-A-N. Temporary on-site woodash storage is necessary during the winter months when accessibility

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to winter field stacking sites is impaired or at other times of the year when inclement weather or other conditions prevent accessibility to utilization sites. The storage facility has a storage capacity of 1,500 wet tons or approximately 5 to 7 weeks woodash production. The conditioned ash will be trucked from the storage facility to agronomic utilization sites and associated field stacking sites periodically.

3. AGRONOMIC BENEFIT

- A. Liming Agent: The applicant proposes to continue to distribute woodash as a liming agent and as a potassium source for agricultural fields. The applicant has performed initial residual analyses for baseline nutrients, total inorganic compounds, and calcium carbonate equivalents (CCE) in accordance with Chapter 405 Sections 6.D (2) (a), (c) and (d). Recent results of these analyses indicate that the ash has an average 50% CCE and a potassium concentration of 5%. Results of historic analyses of the applicant's woodash indicate that from 1993 to 2001, the ash averaged 42% calcium carbonate equivalents. The applicant proposes to apply ash at a rate based on the liming requirements of the soil. Applications of woodash will be limited to two tons of calcium carbonate equivalents (CCE) per acre if topdressed, and three tons of CCE per acre if incorporated.
- B. Loading Rate: The applicant proposes to apply ash at a rate based on the liming or potassium requirements of the soil, whichever is lower. Applications of woodash will be limited to the liming needs or the potassium needs of the target crop as directed by soil test reports. The applicant also proposed to reduce application in those areas sensitive to phosphorus loading (e.g., direct watersheds of water bodies most at risk from new development) to a rate no greater than necessary to supply the phosphorus requirements of the target crop. Phosphorus need, will be calculated based on soil test reports, actual availability of this nutrient in the ash, and application of other phosphorus-containing fertilizers.

4. SUITABILITY OF ASH DERIVED FROM CLEAN WOOD

- A. Metals: The applicant has performed initial analyses for total inorganic compounds in accordance with Chapter 405, section 6.D (2)(d). The results indicate that all are within the applicable limits in Chapter 419, Table 419.4, and Chapter 418, Appendix A.
- B. Semi-Volatile Organic Compounds: The applicant has performed an initial analysis for semi-volatile organic compounds as required by Chapter 405.6.D (2)(j). The results indicate that all are within the applicable limits in Chapter 418, Appendix A.

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C. Dioxin: Analyses of the residual for polychlorinated dibenzo-p-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) indicate that the total toxicity equivalents of these compounds are well below 27 parts per trillion (ppt). Therefore, the applicant is not subject to the additional standards in Chapter 419, section 4.K.

D. Additional Characteristics: The ash contains no human pathogens and generates no odors. The ash contains no nitrogen, and will not be applied above the agronomic rate for potassium. The residual does not meet the definition of sludge.

5. SUITABILITY OF ASH DERIVED FROM REPROCESSED WOOD

The applicant did not provide information on the characteristics of ash from the burning of the alternative fuels. Analytical information on file at the Department indicates that even minor amounts of reprocessed wood fuel renders woodash unsuitable for utilization. The applicant has not demonstrated that the ash from its facility would be suitable for agronomic utilization under the requirements of Chapter 419, if the applicant burned reprocessed wood. Therefore, the Department finds that ash from alternative fuels, should not be utilized by the applicant.

6. SAMPLING AND ANALYTICAL WORK PLAN

A. Sample Plan: The applicant has submitted a Sampling and Analytical Work Plan. However, the Department finds that the applicant must revise the residual analysis portion of the plan in order to meet the standards for ongoing waste characterization in Chapter 405. Revisions must include identification and selection rationale of parameters to be analyzed for, the sample size and sampling frequency, and procedures for decontamination of sampling equipment.

B. Initial Analysis: The applicant has performed an initial analysis for parameters contained in Chapter 405.6.D (2)(a), (c), (d), (j), and (m).

C. Ongoing Analysis: Two separate composite samples will continue to be analyzed twice a year for baseline nutrients, calcium carbonate equivalents, and total inorganic compounds, as specified in Chapter 405, sections 6.D(2)(a), (c) and (d). The Department finds that the applicant should submit analytical results to the Department within 30 days of receipt.

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7. RISK MANAGEMENT

- A. Phosphorus: The applicant proposes to use ash above the crop uptake rate for phosphorus in areas that are not in Watersheds Most at Risk From Development. If the ash is applied at the maximum allowable rate of three tons of CCE/acre/year, phosphorous may be applied in excess of the uptake rates for the crops proposed to be grown. Therefore, when the woodash alone or in combination with other nutrients will be applied above the crop uptake rates for phosphorus, the applicant is subject to the siting standards in Chapter 419 section 3.B, the operating standards in section 4.M, and the prohibition in section 4.E(3)(c).
- B. Other: Except as noted in paragraph 7.A above, the applicant is not subject to the siting standards in Chapter 419 section 3 or any of the additional operating standards of Chapter 419 section 4.H through N, when utilized as proposed.

8. SITE LICENSING PROCESS

- A. Existing Site Licenses: The applicant operates several ash utilization sites that were licensed with program approval under Chapter 567, *Rules for Land Application of Sludge and Residuals*. The sites are licensed under Department orders S-021157-SK-B-P, S-021220-SK-A-P, S-021223-SK-A-P, S-021234-SK-A-P, S-021241-SK-A-P, S-021245-SK-A-P, S-021248-SK-A-P, S-021249-SK-A-P, S-021254-SK-A-P, S-021271-SK-A-P, S-021272-SK-A-P, S-021325-SK-A-P, S-021331-SK-A-P, S-021333-SK-A-P, S-021335-SK-A-P, S-021337-SK-A-P, S-021893-SK-A-P, S-021938-SK-A-P, S-021940-SK-A-P, S-021944-SK-A-P, and S-021963-SK-A-P. Subject to Chapter 419 section 2.I, these existing site licenses remain in effect. However, at these sites, the applicant is subject to the applicable operating standards in Chapter 419. When woodash alone or in combination with other nutrients will be applied above the crop uptake rates for phosphorus, the applicant must follow the operating standards in section 4.M, and the prohibition in section 4.E(3)(c).
- B. Licensing New Utilization Sites: The applicant proposes that licenses not be required for utilization sites and field stockpile sites. The applicant proposes to enter into formal utilization agreements with end users, maintain records, including ash analyses, soil sampling results, list of growers with names, location and telephone numbers, records of amounts and dates of ash deliveries, the Department's Annual Ash Utilization Report, and other records pertaining to the ash program or required by the Department. The applicant has provided the information that will be provided to end users of the residual when site licenses are not obtained. The information is not sufficient to ensure that the siting

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standards in Chapter 419 section 3.B will be met at utilization sites. The information is adequate to ensure that the operating standards in Chapter 419 section 4.E will be met at utilization sites.

C. Storage Instructions: The information provided is also adequate to ensure that storage sites will meet the general siting and design standards in Chapter 419, section 10.A and B, and the operational standards in Chapter 419 section 12.A and B for storage. The applicant proposes that stacking sites will be selected to minimize the risk of run-on to the stockpile, typically on topographically high areas.

D. Site Permitting Requirements:

- (1) At or Below Phosphorus Loading Rates: The Department finds that it is appropriate not to require site-specific permits from the Department when ash is distributed in bulk to utilization sites, provided the applicant does not exceed applicable screening standards in Chapter 419, Table 419.4 for heavy metals, and does not supply more than the crop uptake rate for phosphorus. Further, the Department finds that it is appropriate not to require site-specific storage permits from the Department when ash is field-stockpiled at associated utilization sites that do not require a site license, provided the applicant does not distribute more bulk ash to end users in a given year than can be utilized at their site.
- (2) Above Phosphorus Loading Rates: The Department finds that the applicant must obtain a site-specific license when the woodash alone or in combination with other nutrients will be applied above the crop uptake rates for phosphorus. The purpose of the licensing process is to ensure that the siting standards in Chapter 419 section 3.B, the operating standards in section 4.M, and the prohibition in section 4.E(3)(c) will be met at the site. Associated field stockpile locations must also be licensed. A complete application will consist of the submission requirements in Chapter 419, sections 7.B. and 11.C.

9. FINANCIAL AND TECHNICAL ABILITY

A. Financial Ability: The applicant has estimated that the cost of operating the land application program to be approximately \$200,000.00 annually. The applicant submitted evidence that Boralex has assets available to operate the program in a manner consistent with the requirements.

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B. Technical Ability: The applicant has operated their ash management program in substantial compliance with the applicable State residual utilization rules since the program was begun in 1993.

10. TRAFFIC

The ash utilization program will result in an average of less than sixteen additional vehicle trips per day to any given site. The applicant therefore meets the alternative traffic standard in Chapter 419, section 4.F, and section 10.B (8).

11. NUISANCES AND AIR QUALITY

Woodash does not produce objectionable odors during handling and is unlikely to cause odor nuisances at the site where it is handled. The ash will be quenched with water to prevent fires and to assure that no dust nuisances are created. Woodash utilization and distribution will not generate noise in excess of that generated during normal operations at any site proposed or currently used for ash utilization.

12. EROSION

Woodash utilization decreases the erosion potential at utilization sites by fostering better plant growth. The applicant is subject to the erosion control standards in section 12.A (8) at any storage sites where soils will be disturbed.

13. UTILITIES

No new utilities are required for any of the activities proposed by the applicant.

14. FLOODING

Woodash utilization does not affect the flooding potential of any area.

15. RECORD KEEPING AND REPORTING

A. Record Keeping: The applicant will maintain records of ash analyses, soil sampling results, records of amounts and dates of ash spread on various fields, and the Department's Annual Ash Utilization Report. Additionally, any other records or correspondence pertaining to the ash program, or required by the Department will be kept, including file copies of landspreading site applications and abutting landowner complaints.

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- B. Reporting: The applicant should report analytical results of woodash to the Department within 30 days of receipt. Further, the applicant is required to submit an annual report of utilization activities that meets the standards in Chapter 419, section 6C to the Department by February 28th of each following year.

BASED on the Findings of Fact, and subject to the Conditions listed below, the Department CONCLUDES the proposed project:

1. Will not pollute any water of the state, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance, provided the applicant:
 - A. only uses ash from the combustion of whole tree chips and sawmill wood waste, as defined in Chapter 400, section 1.LLII;
 - B. follows the additional siting standards in Chapter 419 section 3.B(2), the additional operating standards in Chapter 419 section 4.J, files a complete site application including the information in Chapter 419, sections 7.B and 11.C, and receives site specific approval from the Department before using individual sites if the applicant's ash exceeds applicable screening standards in Chapter 419, Table 419.4 for heavy metals;
 - C. when applying ash above the crop uptake rate for phosphorus, follows the additional siting standards in Chapter 419 section 3.B(2), the additional operating standards in Chapter 419 section 4.M and 4.E(3)(c), files a complete site application including the information in Chapter 419, sections 7.B and 11.C, and receives site specific approval from the Department before using individual sites;
 - D. revises the ongoing residual analysis portion of its Sample and Analytical Work Plan to include identification and selection rationale of parameters to be analyzed for, the sample size and sampling frequency, and procedures for decontamination of sampling equipment to meet the standards in Chapter 405;
 - E. does not distribute more bulk ash to a utilization site in a given year than can be utilized at that site; and
 - F. follows the applicable operating standards of Chapter 419; and
 - G. submits analytical results to the Department within 30 days of receipt.
2. The applicant has the financial and technical ability to develop the project in a manner consistent with State environmental standards;

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3. The applicant has made adequate provisions for traffic movement of all types into, out of, and within utilization sites;
4. The proposed project fits harmoniously into the existing natural environment and will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipalities or in neighboring municipalities;
5. The proposed facilities will be on soils types suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sedimentation;
6. The proposed facilities will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur;
7. The applicant has made adequate provisions for utilities including water supplies, sewerage facilities, solid waste disposal and roadways required for the project, and the proposed facilities will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipalities or area served by those services; and
8. The activity will not unreasonably cause or increase the flooding of the areas or adjacent properties nor create an unreasonable flood hazard to any structure.

THEREFORE, the Department APPROVES above noted application of BORALEX ASHLAND INC., SUBJECT TO THE ATTACHED CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached as Appendix A.
2. The applicant shall only use ash from the combustion of whole tree chips and sawmill wood waste, as defined in Chapter 400, section 1.LLII.
3. If the applicant's ash exceeds applicable screening standards in Chapter 419, Table 419.4 for heavy metals, the applicant shall:
 - A. only spread ash at a site licensed for the applicant's ash;
 - B. follow the additional operating standards in Chapter 419 section 4.J; and
 - C. file a complete application including the information listed in Chapter 419, sections 7.B and 11.C and receive site specific approval from the Department before using a new individual site.

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4. If the woodash alone or in combination with other nutrients will be applied above the crop uptake rates for phosphorus, the applicant shall:
 - A. only spread ash at a site licensed for the applicant's ash;
 - B. follow the additional operating standards in Chapter 419 section 4.M, and the prohibition in section 4.E(3)(c); and
 - C. file a complete application including the information listed in Chapter 419, sections 7.B and 11.C and receive site specific approval from the Department before using a new site.

5. In order to meet the standards for ongoing waste characterization in Chapter 405, the applicant shall submit to the Department revisions to the residual analysis portion of its Sampling and Analytical Work Plan to include:
 - A. identification and selection rationale of parameters to be analyzed for;
 - B. the sample size and sampling frequency; and
 - C. procedures for decontamination of sampling equipment prior to sampling and between the collection of successive samples.

6. The applicant shall follow the applicable operating standards of Chapter 419 at all utilization sites, including existing sites licensed under Department orders S-021157-SK-B-P, S-021220-SK-A-P, S-021223-SK-A-P, S-021234-SK-A-P, S-021241-SK-A-P, S-021245-SK-A-P, S-021248-SK-A-P, S-021249-SK-A-P, S-021254-SK-A-P, S-021271-SK-A-P, S-021272-SK-A-P, S-021325-SK-A-P, S-021331-SK-A-P, S-021333-SK-A-P, S-021335-SK-A-P, S-021337-SK-A-P, S-021893-SK-A-P, S-021938-SK-A-P, S-021940-SK-A-P, S-021944-SK-A-P, and S-021963-SK-A-P. Subject to Chapter 419 section 2.I, these existing site licenses remain in effect.

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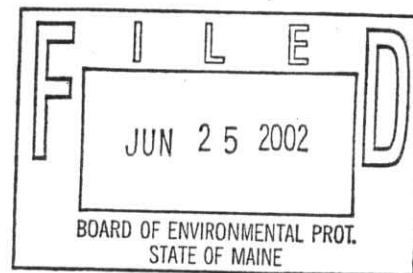
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7. The applicant shall not distribute more bulk ash to a site in a given year than can be utilized at that site, unless the facility is licensed as a secure storage facility under Chapter 419.
8. The applicant shall submit analytical results to the Department within 30 days of receipt.

DONE AND DATED AT AUGUSTA, MAINE THIS 21 DAY
OF June, 2002.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: David Lennett
Martha G. Kirkpatrick, Commissioner



PLEASE NOTE ATTACHED SHEET FOR GUIDANCE APPEAL PROCEDURES.

Date of initial receipt of application: November 2, 1998

Date of application acceptance: November 23, 1998

Date filed with the Board of Environmental Protection

This Order prepared by Jay Duncan, Bureau of Remediation & Waste Management.

XJD31717/jd/si

Appendix A

STANDARD CONDITIONS TO ALL SOLID WASTE FACILITY LICENSES

STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL. VIOLATIONS OF THE CONDITIONS UNDER WHICH A LICENSE IS ISSUED SHALL CONSTITUTE A VIOLATION OF THAT LICENSE, AGAINST WHICH ENFORCEMENT ACTION MAY BE TAKEN, INCLUDING REVOCATION.

1. **Approval of Variations from Plans.** The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the licensee. Any consequential variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
2. **Compliance with All Applicable Laws.** The licensee shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
3. **Compliance with All Terms and Conditions of Approval.** The licensee shall submit all reports and information requested by the Department demonstrating that the licensee has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
4. **Transfer of License.** The licensee may not transfer the solid waste facility license or any portion thereof without approval of the Department.
5. **Initiation of Construction or Development Within Two Years.** If the construction or operation of the solid waste facility is not begun within two years of issuance or within 2 years after any administrative and judicial appeals have been resolved, the license lapses and the licensee must reapply to the Department for a new license unless otherwise approved by the Department.
6. **Approval Included in Contract Bids.** A copy of the approval must be included in or attached to all contract bid specifications for the solid waste facility.
7. **Approval Shown to Contractors.** Contractors must be shown the license by the licensee before commencing work on the solid waste facility.
8. **Background of key individuals.** A licensee may not knowingly hire as an officer, director or key solid waste facility employee, or knowingly acquire an equity interest or debt interest in, any person convicted of a felony or found to have violated a State or federal environmental law or rule without first obtaining the approval of the Department.
9. **Fees.** The licensee must comply with annual license and annual reporting fee requirements of the Department's rules.

ADDITIONAL STANDARD CONDITIONS FOR
SOLID WASTE DISPOSAL FACILITIES

10. Recycling and Source Reduction Determination for Solid Waste Disposal Facilities. This condition does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling.

The solid waste disposal facility shall only accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by 38 MRSA Chapter 13.

11. Deed Requirements for Solid Waste Disposal Facilities. Whenever any lot of land on which an active, inactive, or closed solid waste disposal facility is located is being transferred by deed, the following must be expressly stated in the deed:

- A. The type of facility located on the lot and the dates of its establishment and closure.
- B. A description of the location and the composition, extent, and depth of the waste deposited.
- C. The disposal location coordinates of asbestos wastes must be identified.

SOLID WASTE
ANNUAL LICENSE & ANNUAL REPORT FEE
INFORMATION SHEET

ANNUAL LICENSE FEE

All licensed solid waste facilities are required to pay an annual license fee. These fees assist in supporting the costs associated with the Department's ongoing license compliance activities. A facility's annual license fee is due on the anniversary date of the license (i.e. the date that the license was signed).

To simplify the payment process for annual license fees, invoices will be sent out quarterly to all facilities with an anniversary date falling within that quarter. The amount of the annual license fee is variable dependent upon the type of facility being operated. A fee sheet is attached for your information. To determine the fee that your facility will be assessed on an annual basis, locate the type of facility for which you are licensed in the left-hand column. Follow across to the middle column headed "License Fee" to locate the amount of the fee. If you hold multiple solid waste facility licenses from the Department, you will be assessed the appropriate fee for each facility licenses at the time of the license anniversary date.

EXAMPLE: Facility X is issued a license or renewal on February 10, 1992. Fee will be due annually beginning on March 31, 1993.

ANNUAL REPORT FEE

Solid waste facilities which have been licensed or relicensed under applicable rules valid on or after May 24, 1989 are eligible to forego relicensing. As an alternative to relicensing, facilities are required, in part to comply with annual facility reporting rules and beginning 5 years after the license issue date to pay the associated annual report fee. The annual report fee assists in supporting the solid waste programs. Licensing and annual report review activities.

The annual report fee is to be paid at the time the annual report is submitted (you will not receive an invoice). The amount of the annual report fee is equal to 20% of the amount that would have been paid for a relicensing fee. A fee sheet is attached for your information. To determine the annual report fee that your facility will be assessed on an annual basis beginning 5 years after the license issue date, locate the type of facility for which you are licensed in the left-hand column. Follow across to the far right-hand column headed "Report Fee" to locate the amount of the fee. If you hold multiple solid waste facility licenses from the Department, you will be required to submit the appropriate fee for each facility license with an annual report.

EXAMPLE: Facility X is issued a license or renewal in 1992 in accordance with rules valid on or after May 24, 1989. Submission of the first annual report will be required in accordance with the new rules. No fee is due with the report until 1997-five years after the license issuance date.

*Please note that these fees are subject to change by the Legislature.
The DEP will notify you if these fees change.*

Maine Department of Environmental Protection
 Fee schedule for Solid Waste Licensing
 Fees effective November 1, 2001 to October 31, 2002

AISCode	Description	application processing fee	application licensing fee and annual license fee*	total application fee - new	annual report fee**
BRWM -					
WB	existing, non-secure msw landfill <15,000 people	\$3,982	\$1,138	\$5,120	\$626
WC	existing, non-secure msw landfill >15,000 people	\$3,982	\$3,982	\$7,964	\$1,195
WD	secure landfill	\$5,690	\$9,672	\$15,361	\$2,503
WE	secure landfill for wood waste, land clearing, and demo debris	\$3,195	\$5,325	\$8,520	\$1,384
WF	non-secure landfill for wood waste, land clearing, and demo debris	\$745	\$854	\$1,599	NA
WG	incineration-MSW/special waste	\$3,982	\$5,690	\$9,672	\$1,536
W2	incineration-municipal ≤ 10 tons/day	\$3,982	\$1,138	\$5,120	\$626
WH	reduced procedure transfer station or storage facility	\$628	\$199	\$827	\$103
WH	transfer station or storage facility	\$854	\$199	\$1,053	\$125
WI	tire storage facility	\$456	\$512	\$968	\$148
WK	processing facility other than composting	\$796	\$796	\$1,592	\$239
WV	beneficial use - fuel substitution	\$745	\$532	\$1,278	\$181
WL	on-going beneficial use other than utilization without risk-assessment	\$745	\$213	\$958	\$117
WM	on-going beneficial use other than utilization with risk-assessment	\$1,491	\$532	\$2,023	\$256
W7	beneficial use - reduced procedure	\$411	\$103	\$514	\$62
	permit by rule for on-going activities	\$109	\$109	\$217	\$33
BRWM -					
S2	septage non-utilization site (disposal)	\$586	\$284	\$870	NA
S3	septage utilization site	\$586	\$284	\$870	NA
S4	septage storage site	\$56	\$85	\$142	NA
AISCode	Description	application processing fee	application licensing fee and annual license fee*	total application fee - new	annual report fee**
BRWM -					
SB	program approval - utilization of industrial sludge	\$456	\$456	\$911	\$228
SH	utilization w/program approval industrial sludge	\$170	\$284	\$455	\$108
SN	utilization w/o program approval industrial sludge	\$342	\$626	\$968	\$228
SC	program approval - utilization of municipal sludge	\$342	\$313	\$655	\$165
SI	utilization w/program approval municipal sludge	\$85	\$228	\$313	\$71
SO	utilization w/o program approval municipal sludge	\$170	\$284	\$455	\$108
SD	program approval - utilization of bioash	\$342	\$313	\$655	\$165
SJ	utilization w/program approval bioash	\$85	\$228	\$313	\$71
SP	utilization w/o program approval bioash	\$170	\$284	\$455	\$108
SE	program approval - utilization of wood ash	\$342	\$85	\$427	\$120
SK	utilization w/program approval wood ash	\$56	\$143	\$199	\$45
SQ	utilization w/o program approval wood ash	\$85	\$228	\$313	\$71
SF	program approval - utilization of food waste	\$342	\$85	\$427	\$120
SL	utilization w/program approval food waste	\$56	\$143	\$199	\$45
SR	utilization w/o program approval food waste	\$85	\$228	\$313	\$71
SG	program approval - utilization of other waste	\$342	\$199	\$541	\$142
SM	utilization w/program approval other waste	\$56	\$143	\$199	\$45
SS	utilization w/o program approval other waste	\$85	\$228	\$313	\$71
ST	utilization storage <3,500 cubic yards	\$217	\$190	\$407	\$103
SU	utilization storage ≥3,500 cubic yards	\$435	\$190	\$625	\$168
SV	utilization - other	\$342	\$199	\$541	\$142
	permit by rule for on-going activities	\$109	\$109	\$217	\$54
BRWM -					
CB	type IA leaf and yard waste	\$170	\$170	\$341	\$85
CF	type IB & IC residual <750 yds ³ /yr	\$170	\$170	\$341	\$85

Maine Department of Environmental Protection
 Fee schedule for Solid Waste Licensing
 Fees effective November 1, 2001 to October 31, 2002

CG	type IB & IC residual ≥ 750 yds ³ /yr	\$170	<i>\$170</i>	\$341	\$85
CH	type II $< 3,500$ yds ³ /yr	\$745	<i>\$532</i>	\$1,278	\$330
CI	type II $\geq 3,500$ yds ³ /yr	\$1,491	<i>\$905</i>	\$2,396	\$628
CJ	type III $< 3,500$ yds ³ /yr	\$745	<i>\$532</i>	\$1,278	\$330
CK	type III $\geq 3,500$ yds ³ /yr	\$1,491	<i>\$905</i>	\$2,396	\$628
	permit by rule for on-going activities	\$106	<i>\$106</i>	\$213	\$53

* Italics denotes amount for both application licensing and annual license fees.

Annual license fees are due annually beginning one year after license issuance.

** Annual report fees are due annually beginning 5 years after license issuance.

Annual report fees = 1/5(annual fee plus 1/2 processing fee)

The fee for amendments is one half the processing fee plus one half the licensing fee.

The fee for renewals is one half the processing fee plus the full licensing fee.



DEP FACT SHEET

Appealing a Commissioner's Licensing Decision

issued: November 1999

contact: (207) 287-2811

SUMMARY

One of two methods is available to an aggrieved person for appealing a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner -- in an administrative process before the Board of Environmental Protection ("Board") or a judicial process before Maine's Superior Court. This FACT SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, will assist aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeals. A failure to file an appeal within the identified time periods will result in the Commissioner's decision becoming final.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

Maine Revised Statutes Title 38, section 341-D(4) and DEP Rule Chapter 2, section 21(B)

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

An appeal must contain the following information:

1. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
2. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
3. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
4. *All the matters to be contested.* As part of the appeal, the Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

5. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
6. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in DEP Rule Chapter 2, section 21(B)(3).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A licensing file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* If an applicant proceeds with a project pending the outcome of an appeal, it runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.21(D); 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this FACT SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
